

Florida Injunctions for Protection

An Overview

Office of the State Courts Administrator, Office of Court Improvement

Narrator: Did somebody hurt you or tell you they are planning to hurt you? Are you afraid that someone is going to hurt you? Did you leave an abusive relationship? Is somebody following you or constantly calling you? Do you just want him or her to leave you alone?

Petitioner 1: I'm really scared of him.

Petitioner 2: Why me?

Petitioner 3: How can I keep him away from me?

Petitioner 1: It feels like he will hurt me or he might even kill me before anybody will help me.

Petitioner 3: I keep telling him to stay away and leave me alone, but he keeps coming back anyway.

Petitioner 2: I finally called the cops. The officer said I could file for an injunction.

Petitioner 3: Yeah, my sister said I could get one, what is that?

Petitioner 2: What is an injunction?

Narrator: An injunction, or a restraining order, is a court order that tells one person to stay away from and not contact another person. Unless the court says otherwise, this means no contact by phone, email, text message, letter, in person, or other method. An injunction can tell someone to stay away from your home, car, work, and any other places that the court feels is necessary. This is done in civil court, not criminal court, so the person who requests an injunction keeps the case going. Before a final judgment is issued, the person asking for the injunction can ask the court to drop or stop the order by filling a form called a 'voluntary dismissal.' The clerk's office has these forms. After a final judgment is entered, the person requesting an injunction can ask the court to drop or change the injunction, and a hearing will then be scheduled about the dismissal or change to the order. An injunction does not ask the court to put the other person in jail, but if the other person violates it, he or she may be arrested.

Petitioner: Where do I go?

Narrator: The civil of family court clerk's office will have the paperwork you need to request, change, or try to stop an injunction. You can go to the clerk's office and see a deputy clerk for forms. If you are under 18 years old, an adult will have to file for you. Ask the deputy clerk for more information about this. Both the person filing the injunction and the person being filed against can come in to the clerk's office to get forms or information about a case. However, the clerk cannot give you legal advice. You can print the forms from the internet, too, but you still have to file them in the clerk's office once they are completed or have them notarized and delivered to the clerk's office. Forms are available online at www.flcourts.org under family law forms.

Petitioner: (thinking aloud) I wonder how much this will cost?

Narrator: Actually there is no cost for filing an injunction for protection or for any motions to dismiss, modify, or extend an injunction.

Petitioner: (thinking aloud) Will someone help me fill out the forms?

Narrator: If you can afford an attorney or legal aid is available, it is always better to get an attorney. The court does not provide an attorney for you. Sometimes legal aid or other low cost legal help is available in your area. If you do not have an attorney, court employees, deputy clerks, or advocates are able to help you. They can answer your questions about the forms and explain the court terms and procedures. They do not fill out the forms for you and cannot give you legal advice. You can fill out the papers on your own. You just need to read the directions and answer the questions on the form with as much detailed information as possible. If you cannot read the forms, need to get information to complete them, have someone help you with them, have someone help you with them, or need more time to fill them out, you can take the forms with you. Once you have had a chance to thoroughly complete the forms, return them to the clerk's office to be notarized and filed with the court. Be sure to include information on the forms to indicate where you can be reached by mail, where you live or work to be served with papers, information about other court cases involving you or your minor children and the other person; and information about your children if you have any with the other person, etc. You can keep your address confidential if you tell the clerk that you would like to do so.

Petitioner: What do all these words mean?

Court Staff: The form that asks the court for an injunction is called a petition. The person that files the petition is called the petitioner. The person the petition is filed against is called the respondent. Which one of these petitions do you want to file?

Petitioner: I don't know.

Narrator: There are five different kinds of civil injunctions in Florida. For domestic violence, sexual violence, dating violence, and repeat violence injunctions, the type that you can file depends on your relationship with the other person and what has happened between the two of you. The last type, the Chapter 39 injunction, is used if your child is involved in a dependency case. These injunctions are usually filed by the Department of Children and Families and handled in dependency court.

Court Staff: You may file a domestic violence injunction when the person you are filing against is a family or household member. "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as a family like a boyfriend or girlfriend who lives with you, or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Narrator: Let us review some examples of when it is appropriate to file a domestic violence injunction.

Petitioner 1: The person I needed an injunction against was my husband. We were married and living together, so I filed for a domestic violence injunction.

Petitioner 4: The person I needed an injunction against was my brother. We are related by blood and used to live together. So, I filed for a domestic violence injunction.

Petitioner 3: The person I needed an injunction against was my boyfriend and we have a son together. We were never married and did not live together, but we have a child. So, I filed for a domestic violence injunction.

Petitioner 2: The person I needed an injunction against was my step-dad. He married my mom and we used to live together. So, I filed for a domestic violence injunction.

Court Staff: If you do not fit the requirements to file a domestic violence injunction, the next type of petition to think about is the one for a sexual violence injunction. If you think that you may be a victim of sexual violence, then Florida law requires that you must report the incident to law enforcement if you have not already done so before you can file this petition.

Narrator: The definition of sexual violence includes some technical legal terms. Ask law enforcement, a victim advocate, an attorney, or the deputy clerk for more information if you do not know what these crimes are so that you can decide if they match your situation.

Court Staff: If you do not fit the requirements for a domestic violence injunction or a sexual violence injunction, then the next petition to think about is a dating violence injunction. This is an injunction against somebody that you: Dated in the last six months, AND Had an expectation of affection or had sexual involvement with, AND You interacted with the other person on a regular basis during the relationship (not just one time). Now, if that sounds like your relationship, then you can file for a dating violence injunction. If the domestic, sexual, and dating violence injunctions do not match your situation, then you may want to consider whether a petition for a repeat violence injunction would fit the circumstances of your case. These petitions may be requested for neighbors, co-workers, students, relatives who never lived together, friends, roommates, and others. For this type of injunction, you have to have had TWO incidents of violence or TWO threats of violence that placed you in fear of the other person.

Petitioner: Okay, I figured out which type of injunction I want to ask the court to issue, but do I have to fill out all of these blanks?

Court Staff: Yes, answer as thoroughly as many questions as you can, so the judge will know as much as possible about your situation. Read each one carefully, if you have questions about the forms please ask me, take your time, and write neatly so the judge can read it.

Petitioner: Well, what do I write here?

Court Staff: I can't tell you what to write, but I can tell you that this is where you explain what has happened to you. Remember the judge does not know anything about you and can only make decision based on what you write on this form. So, a petition should include details such as details such as dates, where the violence happened, and specific examples of what the other person has done like scratching, punching, biting, kicking, throwing things, pulling hair, burning skin, pushing, using a weapon, slapping, shoving, strangling, unwanted kissing or touching, or unwanted rough or violent sexual activity. If the other person has not been physically violent toward you but has placed you in fear that they will become physically violent, you may want to explain recent behavior such as: destroying property, keeping you from leaving or from calling law enforcement, threats to hurt you or your family, harassment, following you, threats to or harm to a pet, injury to you in any way, or threats to commit suicide.

Petitioner: What happens next?

Court Staff: well in most cases, the judge will make a decision about your petition in 24 hours. The judge has three options and can decide to: issue a temporary injunction and set the case for a hearing. If so, read the temporary injunction carefully. The other person will get a copy of your petition and the temporary injunction. If the other person contacts you before the hearing, you may contact law enforcement, OR the judge may deny the temporary injunction but set the matter for a hearing only. If the judge denies

the temporary injunction, then no injunction will be held in effect, and your case will not be addressed by the court until the hearing. However, the other person will get a copy of what you wrote in the petition, so you may need to use a safety plan, OR the judge may also deny the petition for injunction. In that case, the other person will not get a copy of the petition. If this happens you can add information that you may have left out on the your fist petition on a different form called a “supplemental petition”.

Narrator: It is the petitioner’s responsibility to obtain a copy of the judge’s order. You may want to wait for a decision or you will need to check back and get a copy of the judge’s decision about your petition. Read the judge’s order carefully and ask the clerk or an attorney if you have any questions.

Narrator: Court dates are set within 15 days of the filing of a petition. Make a note of the hearing date and time on the judge’s order and make plans to go to your hearing so your case will not be dismissed.

Petitioner: Well, what do I bring to the hearing?

Court Staff: You can bring witnesses; evidence or documents that capture what has happened to you; proof of your income or financial information; titles or deeds to property; and copies of other court orders.

Narrator: Witnesses are people that saw or heard what happened to you. Sometimes the court orders people to come in to tell the judge about what thet saw or heard. This order is called a subpoena. You may want to requet that witnesses attend by first serving them with a subpoena, and the clerk can gelp you to do that. Evidence – includes police reports, pictures, phone records, recordings of 911 calls etc. proof of income or financial information – can be shown with your pay stubs, bank statements, etc. Car titles or dees to home or shared property may be provided so that the court has some proof about who owns what. Copies of other court orders – if you and the other person have any other past or current civil or criminal cases bring copies of those court orders.

Petitioner: Well, what do I do until the hearing?

Court Staff: You don’t have to do anything for the injunction. I have some information about places that you can contact for help and support.

Narrator: Help is available. You should get or ask the clerk for information about and referrals to available community resources such as domestic violence centers, domestic violence advocates, legal services, and support systems. Some courts even have pamphlets or videos available. Most importantly if you have any questions, ask them.